REMARKS/ARGUMENTS

Applicants submit the aforementioned amendments in response to the Office Action mailed May 8, 2007.

Claims 1-13, 17, 22 and 25-58 are cancelled.

Claims 14-15, 18-21 and 24 have been amended.

New claims 59 and 60 have been added. No new matter has been added by the addition of these new claims.

Claims 14-16, 18-21, 23-24 and new claims 59-60 are subject to the examination. Reconsideration is respectfully requested in view of the above amendment and the following remarks.

Rejection under 35 USC 112, second paragraph

The Examiner rejects claims 1-13 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants have cancelled claims 1-13. Thus, the rejection to claims 1-13 has been obviated.

Rejection under 35 USC 102(a)

The Examiner rejects claims 1-6, 10, 13-19 and 23, as being anticipated by Ehrenreich et al.

Ehrenreich et al. teaches a peripheral injection of EPO to patients suffering from acute ischemic stroke within 48 hours after the stroke occurrence. The amount of EPO used by Ehrenreich et al. is up to 100,000 IU per patient. Ehrenreich et al. does not teach or suggest that EPO may be administered beyond 48 hours after the stroke. Nor does Ehrenreich et al. teach or suggest any amount of EPO administered to the patient over 100,000 IU.

In contrast, the presently amended claims require that EPO be administered within at least 72 hours after an ischemic event, such as a stroke, and the amount of EPO used for treating the patients well exceeded the amount that taught by Ehrenreich et al. Thus Ehrenreich et al. does not teach or suggest the present invention as presently amended.

Accordingly, the rejection under 35 USC 102(a) over Ehrenreich et al. has been overcome and should be withdrawn.

Rejection under 35 USC 103

The Examiner rejects claims 9, 11, 12, 22 and 24 under 35 USC 103(a) as being unpatentable over Ehrenreich et al., and further in view of Alafaci et al and Brines et al.

As discussed above, Ehrenreich et al. does not teach or suggest an administration of EPO beyond 48 hours after the stroke, nor an administration of EPO at an amount beyond 100,000 IU. Both Alafaci et al. and Brine et al. also fail to teach what Ehrenreich et al. fails.

As known to persons of ordinary skill in the art, EPO is hematopoietic or erythropoietic as such that administration of EPO is expected to stimulate red blood cell production. Thus, an extended exposure to EPO, such as administration of EPO in an increased amount or during a longer period, may induce a cardiovascular event in the patients. The maximum amounts of EPO used by Ehrenreich or Brine are already much higher than what had been recommended. See Physician Desk Reference (PDR), Ed. 2003. Ehrenreich et al. has established that a high dose of EPO, if administered within limited dosing period, could be safely used to treat the stroke patients. However, a combination of higher dose and longer dosing period, as required by the present invention, had never been suggested prior to the present invention, because it would put the patients under the risk of cardiovascular event. Thus, a person of ordinary skill in the art, who is confronted with the same problem, would not be motivated to treat the patients in the same way as claimed in the instant application.

Accordingly, the present invention is not obvious over the cited references, i.e. Ehrenreich et al., Brine et al. and Alafaci et al., either alone or in combination. Applicants respectfully submit that the rejection under 35 USC 103(a) has been overcome and should be withdrawn.

Allowance of the pending claims is respectfully requested.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: August 6, 2007
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